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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/031,505 | 07/02/2002 | Klaus Braun | 4121-133 | 6804 |

7590 04/26/2004
Steven J Hultquist
Intellectual Property Technology Law
P O Box 14329
Research Triangle Park, NC 27709

EXAMINER

RUSSEL, JEFFREY E

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

1654

DATE MAILED: 04/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/031,505

Applicant(s)

BRAUN ET AL.

Examiner

Jeffrey E. Russel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4 and 7-20 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 5,6 and 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. Applicant's election with traverse of the sequence of SEQ ID NO:6 in the paper filed August 14, 2003 is acknowledged. The requirement is still deemed proper and is therefore made FINAL.

This application contains claim 5 reciting SEQ ID NOS:2-5, 7, and 8 nonelected with traverse in the paper filed August 14, 2003. A complete reply to the final rejection must include cancellation of nonelected sequences or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

2. The Sequence Listing filed January 15, 2002 is approved.

3. The drawings are objected to because SEQ ID NOS need to be inserted after every sequence subject to the sequence disclosure rules. See 37 CFR 1.821(d). The SEQ ID NOS may be inserted into the drawings themselves (in which case corrected drawings are required in reply to the Office action to avoid abandonment of the application), or more preferably into the Brief Description of the Drawings at pages 9-10 of the specification. The objection to the drawings will not be held in abeyance.

4. Claim 5 is objected to because of the following informalities: At claim 5, line 7, both occurrences of "Glu" are misspelled. At claim 5, page 6 of the amendment filed March 22, 2004, line 8, the numeral "3" should be a subscript. Appropriate correction is required.

5. Claim 21 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 3. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). Claims 3 and 21 are identical in scope.

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6. Applicant's arguments filed March 22, 2004 have been fully considered but they are not persuasive.

One objection to the drawings and two objections to claim 5 remain from the previous Office action. In addition, claims 3 and 21 appear to be identical in scope.

The prior art rejections set forth in the previous Office action are withdrawn. The prior art references do not teach or suggest a conjugate in which the transport mediator is linked to the address protein/peptide by a redox cleavage site, e.g. a disulfide bond.

7. Claims 1-4 and 7-20 are allowed. Claim 6 is objected to as being dependent upon an objected claim, but would be allowable if re-written to avoid its dependency upon claim 5. Claim 5, limited to the elected sequence, would be allowable if rewritten or amended to overcome the claim objections set forth in this Office action. Claim 21 would be allowable if rewritten or amended to overcome the claim objection set forth in this Office action.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

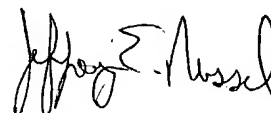
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey E. Russel at telephone number (571) 272-0969. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Brenda Brumback can be reached at (571) 272-0961. The fax number for formal communications to be entered into the record is (703) 872-9306; for informal communications such as proposed amendments, the fax number (571) 273-0969 can be used. The telephone number for the Technology Center 1600 receptionist is (571) 272-1600.



Jeffrey E. Russel

Primary Patent Examiner

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JRussel

April 22, 2004